
**GLOBAL MATERIALS HANDLING PROJECTS LIMITED
SERVICES AGREEMENT**

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“Services”	the services described in Schedule 2.
“Site”	the Customer’s site (or sites) described in Schedule 1.
“Supplier Property”	materials, equipment, documents and other property owned or hired by the Supplier.

1.2 In this Agreement, unless the context otherwise requires:

1.2.1 any term importing gender includes any gender;

1.2.2 any term importing the singular includes the plural and vice versa;

1.2.3 a reference to a **“person”** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); and

1.2.4 any reference to a statute or statutory provision includes any statutory consolidation, re-enactment, amendment or replacement of it and any subordinate legislation made under it.

1.3 Clause headings are for ease of reference only and shall not affect the interpretation of this Agreement.

2. Prior work

2.1 Any services already provided by the Supplier relating to the Project prior to the date of this Agreement are to be treated as forming part of the Services and having been provided under the terms of this Agreement. Any payments made by the Customer to the Supplier prior to the date of this Agreement in respect of services carried out relating to the Project shall be deemed to have been paid on account of the Fee.

3. Supplier’s obligations and authority

3.1 The Supplier shall perform the Services exercising reasonable skill and care.

3.2 The Supplier shall comply with all reasonable instructions given by the Customer in writing under or in connection with this Agreement.

3.3 The Supplier shall provide all staff necessary to properly fulfil its duties under this Agreement.

3.4 The Supplier shall inform the Customer upon becoming aware of any information, decision or action required from the Customer or others in connection with the performance of the Services.

3.5 The Supplier shall use reasonable endeavours to meet any performance dates specified by the Customer and acknowledged by the Supplier in writing, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.6 The Supplier shall act on behalf of the Customer in the matters set out in or necessarily implied from this Agreement or as agreed with the Customer from time to time, but has no authority,

without the Customer's approval, to enter into any contractual or other commitment on behalf of the Customer.

- 3.7 The Supplier reserves the right to amend the scope of Services if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

4. Customer's obligations and authority

4.1 The Customer shall:

- 4.1.1 supply the Supplier with an initial statement of its requirements for the Project;
- 4.1.2 cooperate with the Supplier in all matters relating to the Services;
- 4.1.3 provide the Supplier with access to the Site and other facilities as reasonably required by the Supplier;
- 4.1.4 give decisions and approvals and take such actions necessary to allow the Supplier to perform the Services; and
- 4.1.5 provide free of charge all information and materials in the Customer's possession, or reasonably obtainable, which is necessary for the proper performance of the Services. The Customer shall ensure that such information is complete and accurate and the Supplier shall be entitled to rely on such information.

4.2 The Customer may issue reasonable instructions to the Supplier.

5. Supplier Property

5.1 The Supplier may:

- 5.1.1 use Supplier Property whilst on Site; and/or
- 5.1.2 store Supplier Property on Site in locations directed by the Customer.

5.2 The Customer shall:

- 5.2.1 keep all Supplier Property at the Site in safe custody at its own risk;
- 5.2.2 allow the Supplier access to inspect or collect any Supplier Property stored on Site;
- 5.2.3 not dispose of or use the Supplier Property other than in accordance with the Supplier's written instructions; and
- 5.2.4 indemnify the Supplier against all liabilities, costs, expenses, damages and losses suffered or incurred by the Supplier arising out of or in connection with any loss of or damage to the Supplier Property, except to the extent that the same is due to any act or neglect, breach of statutory duty, omission or default of the Supplier.

6. Additional services

- 6.1 The Customer shall notify the Supplier if the Customer requires the Supplier to provide any services additional to those described in Schedule 2.
- 6.2 The Supplier shall notify the Customer if the Supplier considers that it should provide any services additional to those described in Schedule 2.
- 6.3 The Supplier shall not begin performing any additional services until those additional services have been instructed in writing by the Customer.
- 6.4 The Supplier shall be entitled to an additional fee if the Supplier is instructed to perform additional services. Such additional fee shall be agreed between the parties or, if the parties do not reach agreement, it shall be a fair and reasonable sum based on the hourly rates in Schedule 1.

7. Customer default

- 7.1 If the Supplier's performance of any of its obligations under this Agreement is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):
 - 7.1.1 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 7; and
 - 7.1.2 the Customer shall reimburse the Supplier for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 7.2 The Supplier shall notify the Customer upon becoming aware that clause 7.1 applies.
- 7.3 Where a sum due under this Agreement is not paid in full by the date that payment was due to be made, the Supplier may suspend performance of any or all of its obligations under this Agreement, subject to first giving the Customer seven days' notice stating the ground or grounds on which the Supplier intends to suspend performance. In the event of such a suspension, the Customer shall reimburse the Supplier for any costs and expenses reasonably incurred by the Supplier as a result of the exercise of its right to suspend performance.

8. Payment

- 8.1 The Supplier shall be entitled to payment of:
 - 8.1.1 the Fee;
 - 8.1.2 any additional fee to which the Supplier is entitled under clause 6.4;
 - 8.1.3 any amounts due under clause 7; and
 - 8.1.4 any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services, including without limitation travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided

by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

- 8.2 The Customer shall pay the Supplier any VAT properly chargeable on the Supplier's fees and expenses. Any amount expressed as payable to the Supplier under this Agreement is exclusive of VAT unless stated otherwise.
- 8.3 The Supplier shall submit invoices to the Customer at the intervals stated in Schedule 1 or, if no intervals are stated in Schedule 1, at such intervals as are reasonable having regard to the progress of the Services or as otherwise may be agreed between the parties.
- 8.4 The Customer shall pay each invoice submitted by the Supplier within 7 days of the date of the invoice.
- 8.5 If the Customer fails to pay any sum properly due under this Agreement by the date that payment is due to be made, such sum shall bear simple interest on the overdue sum at the rate of 5% over the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the date that payment was due to be made until actual payment of the overdue amount, whether before or after judgment.
- 8.6 All amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9. Intellectual Property Rights

- 9.1 All Intellectual Property Rights in the Deliverables shall remain vested in the Supplier.
- 9.2 Subject to all sums due and payable under this Agreement to the Supplier having been paid, the Supplier grants the Customer a full, royalty free, irrevocable, non-exclusive licence to use and reproduce the Deliverables for any purpose connected with the Project.
- 9.3 The Deliverables may not be used for any other project.
- 9.4 With the consent of the Supplier, which consent shall not be unreasonably withheld or delayed, the Customer may grant sub-licences and/or transfer the licence to third parties.
- 9.5 The Supplier shall not be liable for the use of the Deliverables for any purpose other than the purposes for which the Supplier provided them.
- 9.6 The Supplier shall supply the Customer with copies of the Deliverables on request from time to time, subject to payment by the Customer of the Supplier's reasonable copying charges.

10. Insurance

- 10.1 The Supplier has in place:
 - 10.1.1 a policy of professional indemnity insurance with a limit of indemnity of £1,000,000 (one million pounds); and
 - 10.1.2 a policy of public and products liability insurance with a limit of indemnity of £5,000,000 (five million pounds).

10.2 When reasonably requested by the Customer, the Supplier shall provide a broker's letter or certificate confirming that its insurance is in place.

11. Limitation of liability

11.1 The Supplier's total liability in respect of any loss, injury or damage whatsoever to any property real or personal of the Customer shall be limited to the sum of £5,000,000 (five million pounds) in the aggregate. This limit shall apply however that liability arises, including, without limitation, a liability arising by breach of contract, arising by tort (including, without limitation, the tort of negligence) or arising by breach of statutory duty.

11.2 The Supplier's total liability under or in connection with this Agreement for all matters other than those referred to in clause 11.1 shall be limited to the sum of £1,000,000 (one million pounds) in the aggregate. This limit shall apply however that liability arises, including, without limitation, a liability arising by breach of contract, arising by tort (including, without limitation, the tort of negligence) or arising by breach of statutory duty.

11.3 Without prejudice to clause 3.5, the Supplier's total liability for any delay in the performance of the Services or any delay to the Project caused by any act, omission or negligence of the Supplier shall be limited to the payment of liquidated damages to the Customer at the rate set out in Schedule 1.

11.4 The Supplier shall have no liability whatsoever to the Customer arising out of, under or in connection with this Agreement for:

11.4.1 loss of profits;

11.4.2 loss of sales or business;

11.4.3 loss of agreements or contracts;

11.4.4 loss of anticipated savings;

11.4.5 loss of use or corruption of software, data or information;

11.4.6 loss of or damage to goodwill; or

11.4.7 indirect or consequential loss of any kind.

11.5 The Supplier shall have no liability to the Customer for any event, claim or matter unless the Customer notifies the Supplier that it intends to make a claim in respect of such event, claim or matter within twelve months of the day on which the Customer became, or ought reasonably to have become, aware of the event, claim or matter. The notice must be in writing and must identify the event, claim or matter and the grounds for the claim in reasonable detail.

11.6 The limits and exclusions in this clause 11 reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

- 11.7 This clause 11 shall not exclude or limit the Supplier's liability for:
- 11.7.1 death or personal injury caused by the Supplier's negligence;
 - 11.7.2 fraud or fraudulent misrepresentation; or
 - 11.7.3 any other matter which the law provides liability may not be excluded or limited.

12. Publicity and confidential information

- 12.1 The Supplier shall not publish any information about the Project, except as reasonably necessary for the performance of the Services, without the Customer's consent (such consent not to be unreasonably withheld or delayed).
- 12.2 Neither party shall disclose the Confidential Information of the other party except:
- 12.2.1 as may be necessary for the performance of its obligations under this Agreement;
 - 12.2.2 to its lawyers, insurers, accountants, auditors and other professional advisers;
 - 12.2.3 as the other party may allow in writing; and
 - 12.2.4 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13. Force majeure

- 13.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, provided that this clause 13 shall not relieve the Customer of its obligation to make payment to the Supplier.
- 13.2 If either party is delayed in performing or fails to perform its obligations under this Agreement due to events, circumstances or causes beyond its reasonable control for a continuous period of more than two months, the party not affected by the events, circumstances or causes may terminate this Agreement by giving seven days' notice to the affected party.

14. Termination

- 14.1 Either party may terminate this Agreement immediately by service of notice if the other party:
- 14.1.1 is in breach of its obligations under this Agreement and has not remedied that breach within fourteen days of receiving a notice specifying the breach and requiring it to be remedied;
 - 14.1.2 takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

- 14.1.3 suspends or threatens to suspend payment of its debts or is unable to pay its debts as they fall due, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being a partnership) has any partner who is deemed either unable to pay his debts or to have no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986.

15. Consequences of termination

- 15.1 Upon termination of this Agreement for any reason:

- 15.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt; and

- 15.1.2 the Customer shall return all Supplier Property and any Deliverables which have not been fully paid for. If the Customer fails to do so, the Supplier may enter the Site and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose.

- 15.2 On termination by the Supplier under clause 14.1 or by either party under clause 13.2, the Supplier shall also be entitled to be paid any expenses necessarily incurred by the Supplier as a direct result of termination and any direct loss and/or damage caused to the Supplier as a result of the termination.

- 15.3 Termination of this Agreement shall not determine the operation of any provisions of this Agreement which remain capable of operation after termination, or affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination.

16. Assignment

- 16.1 The Customer shall not be entitled to assign the benefit of this Agreement without the Supplier's consent (such consent not to be unreasonably withheld or delayed).

- 16.2 The Supplier shall be entitled to assign the benefit of this Agreement without the Customer's consent to any person on a maximum of two occasions. The Supplier shall notify the Customer of any assignment.

17. Sub-contracting

- 17.1 The Supplier may sub-contract the Services in whole or in part. The Supplier shall be responsible for the performance of any part of the Services it sub-contracts to a third party as if it had performed that part of the Services itself.

18. Data protection

- 18.1 Both parties will comply with all applicable requirements of all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic

Communications Directive (2002/58/EC) (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

19. Notices

- 19.1 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand or sent by first class post or email to the relevant address specified in Schedule 1.
- 19.2 Notices given in accordance with clause 19.1 shall be deemed to have been received:
- 19.2.1 if delivered by hand, on the date and at the time of delivery, as evidenced by a signed delivery receipt;
 - 19.2.2 if sent by email, on the date and at the time of sending; and
 - 19.2.3 if sent by first class post, at 9:00am on the second working day after the date of posting.

20. Third party rights

- 20.1 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

21. Entire agreement

- 21.1 This Agreement constitutes the entire agreement and understanding between the parties in relation to its subject matter and supersedes all previous agreements (whether written or oral) between the parties relating thereto. This Agreement applies to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 21.2 Each party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any written or oral statement, representation, misrepresentation, assurance or warranty (whether made negligently or innocently, and whether express or implied) other than as expressly set out in this Agreement. Nothing in this clause 21.2 shall limit or exclude any liability for fraud or for fraudulent misrepresentation.
- 21.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier are issued or published for the sole purpose of giving an approximate idea of the services described in them. They shall not form part of this Agreement or have any contractual force.

22. No waiver

- 22.1 No failure or delay on the part of either party to exercise any right or remedy under this Agreement shall be construed or operate as a waiver, nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy.

23. Severance

- 23.1 If any provision of this Agreement is held by a court or other competent tribunal to be invalid or unenforceable, it shall be severable and shall be deemed omitted from this Agreement to

the extent necessary to prevent such invalidity or unenforceability, and the remaining provisions shall continue to have full effect.

24. Governing law and jurisdiction

24.1 This Agreement shall be governed by English law and the English courts shall have exclusive jurisdiction with regard to all matters arising under it.

THIS AGREEMENT is entered into on the date stated at the beginning of it.

Signed on behalf of **[Customer]**

..... (signature)
..... (print name)
..... (position)

Signed on behalf of Global Materials Handling Projects Limited

..... (signature)
..... (print name)
..... (position)

SCHEDULE 1 – AGREEMENT PARTICULARS

Clause		
1.1	The Fee is:	[insert details]
1.1	The Project is:	[insert description]
1.1	The Site is:	[insert site address]
6.4	Hourly rates for additional fees are:	[insert details]
8.3	Invoices will be submitted:	[insert details]
11.3	Liquidated damages at the rate of	£[] per [] subject to a maximum cap on liquidated damages of £[]
19.1	The addresses for service of notices are:	<p>Customer: Address: [TBC] Email: [TBC]</p> <p>Supplier: Address: [TBC] Email: [TBC]</p>

SCHEDULE 2 – SERVICES

[Scope of services to be inserted]